

REMARKS

This amendment is filed in response to the Examiner's office action dated March 27, 2002. In this office action, the Examiner has noted that the listing of references on page 1 of the specification is not a proper information disclosure statement. Applicants acknowledge the indication that the list of references on page 1 of the specification has not been considered unless the examiner has cited the reference on form PTO-892. An Information Disclosure Statement accompanies this response.

In this office action, the Examiner has also rejected claims 2, 4, 5, and 13 under § 112, ¶2 as being indefinite, rejected claims 1-4 and 8-16 under § 102(b) as being anticipated by Mattei (U.S. Patent No. D298,712), rejected claim 6 under § 103(a) as being obvious over Mattei in view of Murphy (U.S. Patent No. D329,775), and rejected claim 7 under § 103(a) as being obvious over Mattei in view of Correia (U.S. Patent No. 5,738,020).

In addition, claim 13 has been amended to delete duplicative limitations in the claim. This amendment in no way is believed to narrow the scope of the claim.

Claims 17 and 20 have also been amended to correct minor typographical errors found on upon a review of the application. Specifically, the order of the limitations in claims 17 and 20 have been rearranged so as to provide proper antecedent basis for "the scoop." These amendments in no way are believed to narrow the scope of the claims and are for clarification purposes only.

The present amendment amends claims 1-4, 10, 13, 17, and 20, and adds new claims 21- 26. Entry of these claim amendments is respectfully requested.

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Claim Rejections - 35 U.S.C. § 112

Each of claims 2, 4, 10, and 13 have been amended to overcome rejections made under 35 U.S.C. § 112 without narrowing claim scope of claims. These amendments clarify that the claims are directed to the sub-combination of the scoop holder. In light of the amendments and the foregoing arguments, withdrawal of this rejection is requested. It is believed that no amendment to claim 5 is necessary, because as it was originally presented, it recites a sub-combination of a scoop holder.

In light of the foregoing and the amendments to the claims, withdrawal of the rejections under §112, ¶2 is therefore requested.

Claim Rejections - 35 U.S.C. §§ 102 and 103

Independent Claim 1

Claim 1 recites a cat litter scoop holder for a cat litter scoop that has a perforate scoop portion and a handle. The cat litter scoop holder includes a base; a retainer lip extending upwardly from the base; a rear wall that is spaced from the retainer lip; and a scoop-receiving pocket that is defined by the retainer lip and the rear wall. Claim 1 has been amended to further require that the retainer lip extend *outwardly* from adjacent the rear wall. Mattei fails to disclose, teach or suggest, alone or in combination with any other cited reference, a cat litter scoop holder that has this claim limitation. The holder of Mattei is for toilet bowl brushes. Therefore, the retaining lip of Mattei does not extend outwardly from adjacent the rear wall. Thus, Mattei fails to teach each and every limitation of amended claim 1.

For at least these reasons, claim 1 is believed to be in condition for allowance, and allowance of claim 1 is respectfully requested.

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Dependent Claims 2-4 and 8-16

Claim 8 depends from claim 1 and further requires, *inter alia*, "a pair of spaced apart sidewalls disposed on or adjacent the pocket with each sidewall including *an opening* therein that promotes ventilation through the cat litter scoop when the cat litter scoop is received in the pocket." The Office Action contends in marked up copy of FIG. 7 of the Mattei patent that the edges of the tiltable wall and the edges of the stationary wall of Mattei correspond to the sidewalls of the claimed invention. Even if this were the case, the edges of these walls do not include an opening therein that promotes ventilation through the cat litter scoop when the cat litter scoop is received in the pocket, as is required by claim 8. Therefore, claim 8 is novel in light of Mattei.

Dependent claims 9-16 are believed to be in condition for allowance for incorporating by reference the limitations of claim 8 and for defining additional features of the invention, which, when considered in combination with those of claim 8, are neither disclosed nor suggested by the prior art relied upon in the rejection. For example, claim 9 requires each sidewall opening to be generally vee-shaped. Since Mattei completely lacks an opening in the sidewall, Mattei cannot anticipate claim 9.

In claim 11, an apex, which is disposed adjacent the base, is required on the pocket and each sidewall opening. In addition, claim 11 further requires that "each sidewall further comprises a flange that truncates the apex of each sidewall opening and constrains side-to-side movement of the cat litter scoop when the cat litter scoop is received in the pocket is further required." Clearly, these further claim limitations are not disclosed by Mattei.

Claim 16 further requires "a pair of spaced apart sidewalls that each have an opening therein. As noted above, the Mattei patent does not disclose an opening in a sidewall."

Thus, the Mattei patent fails to disclose a cat scoop holder having the limitation of these claims. In light of the foregoing, withdrawal of the rejection of claims 2-4 and 8-16 is respectfully requested.

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Dependent Claim 6 and 7

The rejection of claims 6 and 7 as being obvious over Mattei and Murphy is respectfully traversed because, *inter alia*, there is no teaching or suggestion to combine the references.

The Office Action contends that it would have been obvious to add Murphy's skirt to Mattei's base to improve stability. However, the Mattei patent is a design patent, whose drawings undoubtedly show that the base of the toilet bowl holder of Mattei is a stable structure. Therefore, the base alone would minimize tipping of the holder when it is disposed upright on a generally horizontal surface, and there would be no need to incorporate an inclined skirt that extends outwardly from adjacent the retainer lip to a pedestal. Therefore, there would be no motivation to combine the teachings of Murphy with those of Mattei to produce a toilet brush holder with an inclined skirt.

Claim 7 requires, *inter alia*,

a bracket that removably mounts the cat litter scoop holder to a generally vertical surface, the bracket comprising a spacer that spaces the cat litter scoop holder from the vertical surface, a mounting tab that is used to mount the bracket to the vertical surface, and a pair of spaced apart fingers that each engage the cat litter scoop holder to releasably attach the cat litter scoop holder to the bracket.

This recited combination of structural limitations provides a cat scoop holder that can be attached to a wall or other vertical structure. This novel combination of structural elements recited in claim 7 is not rendered obvious by the purported combination of Mattei and Correia because there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings of the cited references.

The Office Action candidly notes that the Mattei patent fails to teach or suggest a bracket that removably mounts the holder to a vertical surface as is required by claim 7. The Office Action contends that "It would have been obvious to one of ordinary skill in the art at the time of invention to have added Correia's bracket and aperture to Mattei's holder in order to be able to store Mattei's holder on a vertical surface.

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From the Mattei drawings, it is clear that the toilet bowl brush holder of Mattei is intended to be placed on a horizontal surface, such as a floor. There is nothing in Mattei to suggest that it be modified to include a bracket that would removably mount it to a generally vertical surface. The fact that the outer walls of the holder of Mattei are curved suggests that one of ordinary skill in the art would not be motivated to mount the Mattei holder to a vertical surface because it would not stably rest thereon. Furthermore, there is no reason that one of skill in the toilet brush holder are would be motivated to mount a toilet brush holder on a vertical surface since, e.g., leakage from the holder would soil a wall.

In summary, applicants respectfully submits that the §103 rejections of claims 6 and 7 must be withdrawn because it fails to identify a legally proper suggestion or motivation for combining the prior art references in the manner proposed by the office action.

Allowed Claims and Allowable Subject Matter

Applicants gratefully acknowledge the indication that claims 17-20 have been allowed.

Newly Added Claims

New claims 21-26 are believed to be in condition for allowance for reciting a combination of features that are not disclosed, taught, or suggested by Mattei, Murphy, and Correia, alone or in combination. Therefore, allowance of new claims 21- 26 is respectfully requested. The remainder of the remarks are directed to the allowability of the new independent claims.

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Independent Claim 21

New claim 21 recites a cat litter scoop holder that has a rear wall that is spaced from the retainer lip and that has a *height that is higher* than a height of the retainer lip. New claims 22 and 23 depend from claim 21. Claim 22 additionally recites a pair of *inturned flanges* with one of the flanges disposed along substantially the entire length of one side of the rear wall and the other one of the flanges disposed along substantially the entire length of the other side of the rear wall. Claim 23 requires that the retainer lip does not move in relationship to the rear wall when a cat litter scoop is inserted or removed from the pocket.

Independent Claim 24

Claim 24 recites a cat litter scoop holder including a base, a retainer lip extending upwardly from the base, and a rear wall. The retainer lip and the rear wall define a scoop-receiving pocket. The rear wall is spaced from the retainer lip and that has a pair of *inturned flanges* with one of the flanges disposed along substantially the entire length of one side of the rear wall and the other one of the flanges disposed along substantially the entire length of the other side of the rear wall.

Independent Claim 25

Claim 25 recites a cat litter scoop holder that includes a base, *an outwardly inclined retainer wall that extends outwardly from adjacent the rear wall*, and a rear wall that is spaced from the retainer lip. The retainer lip and the rear wall define a scoop-receiving pocket. Claim 26 depends from claim 25 and further requires that the retainer wall has a generally triangular cross section.

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Conclusion

All of the claims are believed to define patentable subject matter under 35 U.S.C. Sections 112, 102, and 103 and to be in proper form for allowance. Therefore, reconsideration and allowance of claims 1-26 is respectfully requested.

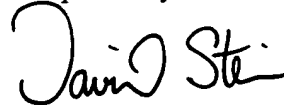
The Commissioner is authorized to charge payment in the amount of \$694 with \$460 being allotted for a three month extension of time for a small entity, \$126 allotted for 3 additional independent claims, and \$54 allotted for 6 additional by a small entity. No other fees are believed to be payable. Nevertheless, the Commissioner is authorized to charge payment of any other fees associated with this communication or credit any overpayment to Deposit Account No. 50-1170.

Petition for Three Month Extension of Time

Applicants hereby petition for a three-month extension of time from June 27, 2002 to September 27, 2002.

Should the Examiner have any remaining questions, the attending to of which would expedite issuance of this application, he is requested to contact the undersigned at the telephone number appearing below.

Respectfully submitted,



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Version Showing Proposed Claim Amendments

1. (Amended) A cat litter scoop holder for a cat litter scoop that has a perforate scoop portion and a handle, the cat litter scoop holder comprising:
a base;
a retainer lip extending upwardly from the base;
a rear wall that is spaced from the retainer lip; and
wherein the retainer lip extends outwardly from adjacent the rear wall, and
wherein the retainer lip and the rear wall define a scoop-receiving pocket.
2. (Amended) The cat litter scoop holder of claim 1 wherein the base is disposed toward a generally horizontal surface, the pocket is vee-shaped, and the is configured and dimensioned to receive a cat litter scoop is disposed such that its longitudinal axis is generally vertical when it is received in the pocket.
3. (Amended) The cat litter scoop holder of claim 1 wherein the pocket has a trough at its bottom that is perforate and that collects matter from the a cat litter scoop when the a cat litter scoop is received in the pocket.
4. (Amended) The cat litter scoop holder of claim 3 wherein the scoop portion of the cat litter scoop has an edge at its free end and the trough is disposed adjacent the an edge at a free end of the a scoop portion of the a cat litter scoop when the a cat litter scoop is received in the pocket of the cat litter scoop holder.
10. (Amended) The cat litter scoop holder of claim 9 wherein the pocket is generally vee-shaped to receive the cat litter scoop wherein the scoop portion of the cat litter scoop has a nose with a generally vee shaped cross section taken along a longitudinal direction.

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13. (Amended) The cat litter scoop holder of claim 11 wherein ~~(a) the scoop portion of the cat litter scoop has a pair of sidewalls that each have an edge, (b) the handle is curved, (c) the handle curves beyond the sidewall edges, and (d) the cat litter scoop holder further comprises a spacer in the pocket that is disposed adjacent the apex of the pocket and that extends inwardly from the rear wall to keep the a cat litter scoop in an upright position when the a cat litter scoop is received in the pocket~~

17. (Amended) A cat litter scoop holder for a cat litter scoop that has a perforate scoop portion and a handle, the cat litter scoop holder comprising:

a base upon which the cat litter scoop holder can stand upright on a generally horizontal surface;

a rear wall that has a pair of inturned flanges ~~with one of the flanges disposed on one side of the cat litter scoop and being curved and generally following a part of the outer peripheral contour of the scoop portion when the scoop is received in the pocket of the cat litter scoop holder and the other one of the flanges disposed on the other side of the cat litter scoop and being curved and generally following another part of the outer peripheral contour of the scoop portion when the scoop is received in the pocket of the cat litter scoop holder;~~

an outwardly inclined retainer wall that extends outwardly from adjacent the rear wall; and

wherein the retainer wall and the rear wall define a scoop-receiving pocket that orients a cat litter scoop received in the pocket in an upright position with its handle extending upwardly beyond the pocket; and

wherein one of the flanges of the rear wall is disposed on one side of the cat litter scoop and is curved and generally follows a part of the outer peripheral contour of the scoop portion when the scoop is received in the pocket of the cat litter scoop holder and the other one of the flanges of the rear wall is disposed on the other side of the cat litter scoop and is curved and generally follows another part of the outer peripheral contour of the scoop portion when the scoop is received in the pocket of the cat litter scoop holder.-

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20. (Amended) A cat litter scoop holder for a cat litter scoop that has a perforate scoop portion and a handle, the cat litter scoop holder comprising:

a base upon which the cat litter scoop holder can stand upright on a generally horizontal surface;

~~a rear wall that has a pair of inturned flanges with one of the flanges disposed on one side of the cat litter scoop and being curved and generally following a part of the outer peripheral contour of the scoop portion when the scoop is received in the pocket of the cat litter scoop holder and the other one of the flanges disposed on the other side of the cat litter scoop and being curved and generally following another part of the outer peripheral contour of the scoop portion when the scoop is received in the pocket of the cat litter scoop holder;~~

an inclined retainer wall that extends outwardly from adjacent the rear wall;

wherein the retainer wall and the rear wall define a scoop-receiving pocket; and

a bracket that releasably engages the rear to releasably mount the cat litter scoop holder to the wall; and

wherein one of the flanges is disposed on one side of the cat litter scoop and is curved and generally following a part of the outer peripheral contour of the scoop portion when the scoop is received in the pocket of the cat litter scoop holder and the other one of the flanges is disposed on the other side of the cat litter scoop and is curved and generally following another part of the outer peripheral contour of the scoop portion when the scoop is received in the pocket of the cat litter scoop holder.

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